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REMARKS/ARGUMENTS

In view of the following remarks, the applicants respectfully submit that the pending claims are not rendered obvious under 35 U.S.C. § 103. Accordingly, it is believed that this application is in condition for allowance. If, however, the Examiner believes that there are any unresolved issues, or believes that some or all of the claims are not in condition for allowance, the applicants respectfully request that the Examiner contact the undersigned to schedule a telephone Examiner Interview before any further actions on the merits.

The applicants will now address each of the issues raised in the outstanding Office Action.

Rejections under 35 U.S.C. § 103

Claims 1-3, 5, 9, 10, 17, 18, 20-25, 27-31, 36, 37 and 39 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0054589 ("the Nicholas publication"), in view of U.S. Patent No. 6,665,658 ("the DaCosta patent"). The applicants respectfully request that the Examiner reconsider and withdraw this ground of rejection in view of the following.

Independent claims 1 and 36, as amended, are not rendered obvious by the Nicholas publication and DaCosta patent since the cited references neither teach, nor make obvious, *determining, with a first entity and responsive to an ad request, that the content included in a target*

document cannot be analyzed by the first entity to determine if an ad relevant to the content of the target document is available for rendering.

In rejecting previously presented claim 1, the Examiner states:

Nicholas teaches "determining, by the computer system of the first entity and responsive to the first ad request, [demographic information of the user] to determine if an ad relevant to the content of the first target document is available for rendering," see Fig. 25 and par. 103, "A determination of demographic information related to user is then made during a stage S418 of the flowchart 410. . . Based on the demographic determination, ad selection node 140 checks for an ad based on the demographic information during a stage S420 of the flowchart 410." [Emphasis added.]

(Paper No. 20100217, page 3) The Examiner concedes that:

Nicholas does not teach "determining... that the first target document cannot be analyzed by the first entity."

(Paper No. 20100217, page 3) To address this admitted deficiency, the Examiner cites the DaCosta patent and states:

DeCosta teaches that conventional web crawlers cannot crawl (i.e. "analyze") dynamic web sites, see col. 1, l. 46 - col. 2, l. 2. Thus, it would have been obvious to one of ordinary skill in the database art at the time of the invention for Nicholas to additionally determine

the crawlability of the target document *because DeCosta's teachings would have allowed Nicholas' method to ignore web sites it cannot properly analyze*, see DeCosta col. 1, 1. 46 - col. 2, 1. 2. [Emphasis added]

(Paper No. 20100217, page 3) The applicants respectfully disagree.

In the Nicholas publication, "[a] determination of demographic information related to [a] user is ... made." (Paragraph [0103] of the Nicholas publication) Based on the demographic determination, "ad selection node 140 checks for an ad based on the demographic information." If an "appropriate targeted ad" (based on the demographic determination) does not exist in the Nicholas publication, "ad selection node 140 may forward the request for an ad to a default service from content provider node 130." (Paragraph [0103] of the Nicholas publication) Thus, as can be appreciated from the foregoing, the Nicholas publication does not consider or describe a situation where the target document cannot be analyzed.

Meanwhile, the portion of the DaCosta patent cited by the Examiner provides:

The main problem is that these *dynamic web sites* provide valuable content and information, *which is not possible to automatically gather and index using existing technologies*. However, it would be very valuable if this data were available and indexed for other meta search engines to search. [Emphasis added.]

(Column 1, lines 46-48 of the DaCosta patent) The DaCosta patent further clarifies the reasons its inventors believe that "existing technologies" were not able to "automatically gather and index" dynamic web sites:

*The standard web crawler is not able to systematically crawl the site and replicate the database because of the need for user interaction. There is no mechanism to simulate the user's behavior, or interaction, during a typical search session. [Emphasis added.]*

(Column 1, line 67 through column 2, line 2 of the DaCosta patent) The DaCosta patent attempts to address this issue by developing a "method for a web crawler to automatically simulate user interaction with a dynamic website in order to gather and extract information from the site." (Abstract of the DaCosta patent)

In view of the foregoing, the applicants respectfully disagree with the rationale the Examiner provides for modifying the Nicholas publication in view of the DaCosta patent (See, e.g., Paper No. 20100217, page 3.). Specifically, *since the Nicholas publication "checks for an ad based on the demographic information"*, the Nicholas publication does not need to "determine the crawlability" of a Web site to determine its contents for the purposes of determining content-relevant ads. (Paragraph [0103] of the Nicholas publication) Furthermore, the Nicholas publication describes advertising on dynamically generated Web pages and states:

One embodiment includes communicating the ad information to a java server page (JSP), an active server page (ASP), or any other such dynamically generated web page, resource, or service known in the art.

(Paragraph [0099] of the Nicholas publication) As can be appreciated from the foregoing, the alleged "solution" of the DaCosta patent does not address a problem in the Nicholas publication since the Nicholas publication "includes communicating the ad information to ... dynamically generated web page[s]". Therefore, one skilled in the art would not have combined the references as proposed by the Examiner.

Thus, since the Nicholas publication and the DaCosta patent neither teach, nor make obvious, determining that the content included in an accessible target document cannot be analyzed by the first entity to determine if an ad relevant to the content of the target document is available for rendering, and since one skilled in the art would not have combined the references as proposed by the Examiner, claims 1 and 36 are not rendered obvious by the cited references. Since claims 2, 3, 5, 9, 10, 17, 18, 20-25, 27-31 and 39, as amended, directly or indirectly depend from claim 1, and since claim 37 depends from claim 36, these claims are similarly not rendered obvious by the cited references.

Claims 7 and 8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Nicholas publication, in view of the DaCosta patent, and in view of U.S. Patent Application Publication No. 2003/0131095 ("the Kumhyr publication"). The applicants respectfully request that

the Examiner reconsider and withdraw this ground of rejection in view of the following.

Dependent claims 7 and 8 indirectly depend from claim 1. The purported teachings of the Kumhyr publication would not compensate for the deficiencies of the Nicholas publication and the DaCosta patent with respect to claim 1, discussed above, regardless of the absence or presence of an obvious reason to combine these references. Consequently, claims 7 and 8 are not rendered obvious by the cited references for at least this reason.

Claims 11-16, 41 and 42 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Nicholas publication, in view of the DaCosta patent, and in view of U.S. Patent Application Publication No. 2004/0044571 ("the Bronnimann publication"). The applicants respectfully request that the Examiner reconsider and withdraw this ground of rejection in view of the following.

First, dependent claims 11-16 indirectly depend from claim 1. The purported teachings of the Bronnimann publication would not compensate for the deficiencies of the Nicholas publication and the DaCosta patent with respect to claim 1, discussed above, regardless of the absence or presence of an obvious reason to combine these references. Consequently, claims 11-16 are not rendered obvious by the cited references for at least this reason.

Claims 11 and 41 are not rendered obvious by the Nicholas publication, the DaCosta patent, and the Bronnimann publication since the cited references do not

teach, or make obvious, indicating the availability of at least a portion of the resource of the target document to the publisher associated with the target document *based on the determination that a threshold number of ads having untapped budgets are not available to render in association with the target document*, wherein the act of determining that a threshold number of ads having untapped budgets are not available to render in association with the target document includes determining that the number of ads for which advertisers are willing to pay the ad serving system does not exceed a defined threshold. In rejecting claim 41, the Examiner concedes:

Nicholas does not teach "determining, by the content ad serving system and responsive to the ad request associated with the target document, that a threshold number of ads having untapped budgets are not available to render in association with the target document."

(Paper No. 20100217, page 26) To address this admitted deficiency, the Examiner cites the Bronnimann publication and states:

Bronnimann teaches grouping advertisements to be displayed on a website to maximize revenue, see par. 7. It would be obvious to one of ordinary skill in the database art at the time of the invention, then, that Bronnimann would determine whether a sufficient number of ads "having untapped budgets" were available to render because web server owners prefer to maximize revenue, see Bronnimann par. 5. Further, it would have been obvious to one of ordinary skill in the database art at the time of the invention to combine the teachings of

the cited references because Bronnimann's teachings would have allowed Nicholas' method to optimize advertisement revenue, see Bronnimann par. 5.

(Paper No. 20100217, page 26) The applicants respectfully disagree.

The Bronnimann publication "determines the most efficient grouping of advertisements for a limited-space output, comparing groupings of advertisements to other groups to determine the greater revenue to the distribution system." (Abstract of the Bronnimann publication) Specifically, the portion of the Bronnimann publication cited by the Examiner provides:

[0007] According to yet another embodiment, the system analyzes ranked listings in a grouping, such as a grouping based on the targeted output format. For example, if five listings are to be output for a keyword to a search engine system, then the system analyzes *the optimized revenue efficiency* for five advertisements in that grouping. Or, in a content portal page, *if there are five slots for advertisements in that portal page, then the system analyzes various groupings of advertisements to fill those five slots to determine which groupings in those five slots generates the most revenue per impression.* This enhanced embodiment recognizes that diversity, for example, within a limited number of slots may realize the most revenue per impression for some advertising venues. [Emphasis added.]

(Paragraph [0007] of the Bronnimann publication)



As can be appreciated from the foregoing, in the Bronnimann publication "the system analyzes *the optimized revenue efficiency* for five advertisements in that grouping. [Emphasis added.]" (Paragraph [0007] of the Bronnimann publication) However, this in no way teaches determining that a *threshold number of ads having untapped budgets* are not available to render in association with a target document. The Bronnimann publication merely "determine[s] which groupings [of advertisements] in those five slots generates the most revenue per impression." (Paragraph [0007] of the Bronnimann publication)

In addition, the purported teachings of the Nicholas publication and the DaCosta patent do not overcome the deficiencies of the Bronnimann publication described above.

Thus, independent claim 41, is not rendered obvious by the cited references for at least this reason. Dependent claim 11 is similarly not rendered obvious by the cited references.

Furthermore, claims 12 and 42 are not rendered obvious by the cited references since the cited references do not teach, or make obvious, indicating the availability of at least a portion of the resource of the target document to the publisher associated with the target document *based on the determination that net revenue for the content ad system for serving the ad will not be positive*. In rejecting claim 42, the Examiner concedes:

Nicholas does not teach "determining, by the content ad serving system and responsive to the ad request associated with the target document, that net revenue for the content ad system for serving the ad will not be positive."

(Paper No. 20100217, page 28) To address this admitted deficiency, the Examiner cites the Bronnimann publication and states:

Bronnimann teaches that "if five listings are to be output for a keyword to a search engine system, then the system analyzes the optimized revenue efficiency for five advertisements in that grouping," see par. 7. It would have been obvious to one of ordinary skill in the database art at the time of the invention to determine which advertisements would generate negative revenue because web server owners prefer to maximize revenue, see Bronnimann par. 5. Further, it would have been obvious to one of ordinary skill in the database art at the time of the invention to combine the teachings of the cited references because Bronnimann's teachings would have allowed Nicholas' method to optimize advertisement revenue, see Bronnimann par. 5.

(Paper No. 20100217, page 28) The applicants respectfully disagree.

The Bronnimann publication "determines the most efficient grouping of advertisements for a limited-space output, comparing groupings of advertisements to other groups to determine the greater revenue to the distribution system." (Abstract of the Bronnimann

publication) Specifically, the portion of the Bronnimann publication cited by the Examiner provides:

[0007] According to yet another embodiment, the system analyzes ranked listings in a grouping, such as a grouping based on the targeted output format. For example, if five listings are to be output for a keyword to a search engine system, then the system analyzes *the optimized revenue efficiency* for five advertisements in that grouping. Or, in a content portal page, *if there are five slots for advertisements in that portal page, then the system analyzes various groupings of advertisements to fill those five slots to determine which groupings in those five slots generates the most revenue per impression.* This enhanced embodiment recognizes that diversity, for example, within a limited number of slots may realize the most revenue per impression for some advertising venues. [Emphasis added.]

(Paragraph [0007] of the Bronnimann publication)

As can be appreciated from the foregoing, in the Bronnimann publication "the system analyzes *the optimized revenue efficiency* for five advertisements in that grouping. [Emphasis added.]" (Paragraph [0007] of the Bronnimann publication) However, this does not teach determining *that net revenue for the content ad system for serving the ad will not be positive.* The Bronnimann publication merely "determine[s] which groupings [of advertisements] in those five slots generates the most revenue per impression." (Paragraph [0007] of the Bronnimann publication)

In addition, the purported teachings of the Nicholas publication and the DaCosta patent do not overcome the

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deficiencies of the Bronnimann publication described above

Thus, independent claim 42, is not rendered obvious by the cited references for at least this additional reason. Dependent claim 12, and claims 13-16 (which directly or indirectly depend from claim 12) are similarly not rendered obvious by the cited references.

### Conclusion

In view of the foregoing remarks, the applicants respectfully submit that the pending claims are in condition for allowance. Accordingly, the applicants request that the Examiner pass this application to issue.

Any arguments made in this request for reconsideration pertain *only* to the specific aspects of the invention *claimed*. Any claim amendments or cancellations, and any arguments, are made *without prejudice to, or disclaimer of*, the applicants' right to seek patent protection of any unclaimed (e.g., narrower, broader, different) subject matter, such as by way of a continuation or divisional patent application for example.

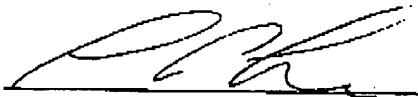
Since the applicants' remarks, amendments, and/or filings with respect to the Examiner's objections and/or rejections are sufficient to overcome these objections and/or rejections, the applicants' silence as to assertions by the Examiner in the Office Action and/or to certain facts or conclusions that may be implied by objections and/or rejections in the Office Action (such as, for example, whether a reference constitutes prior art, whether references have been properly combined or

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modified, whether dependent claims are separately patentable, etc.) is not a concession by the applicants that such assertions and/or implications are accurate, and that all requirements for an objection and/or a rejection have been met. Thus, the applicants reserve the right to analyze and dispute any such assertions and implications in the future.

Respectfully submitted,

July 2, 2010

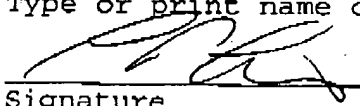
  
Leonard P. Linardakis, Attorney  
Reg. No. 60,441  
Tel.: (732) 936-1400

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